

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TERRY L. ZIMMERMAN and RAGHURAMA BHYRAVABHOTLA

Appeal No. 2002-0574
Application No. 09/144,949

ON BRIEF

Before HAIRSTON, GROSS, and BARRY, Administrative Patent Judges.
HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims
1 through 6.

The disclosed invention relates to a method and system for
displaying price information for a random weight item.

Claim 1 is illustrative of the claimed invention, and it
reads as follows:

1. A method of displaying price information for a
random weight item comprising the steps of:

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(a) reading an electronic price label data file to obtain identification information for an item associated with the electronic price label;

(b) determining from the identification information whether the item is the random weight item; and

(c) if the item is the random weight item, sending a message to the electronic price label instructing the electronic price label to display only unit price information.

The references relied on by the examiner are:

Sundelin	4,002,886	Jan. 11, 1977
O'Connor	4,959,530	Sep. 25, 1990

Claims 1 through 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundelin in view of O'Connor.

Reference is made to the brief (paper number 11) and the answer (paper number 12) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the obviousness rejection of claims 1, 2 and 4 through 6, and reverse the obviousness rejection of claim 3.

As shown in Sundelin (Figures 1 and 2), an electronic price label 6 displays both a unit price 10, 11 and a total price for an item. The examiner acknowledges (answer, pages 4 and 5) that "Sundelin fails to teach determining from the identification

information whether the item is a random weight item, and if the item is a random weight item, sending a message to the electronic price label."

O'Connor recognizes (Figure 1; column 1, lines 28 through 60) that some items may be sold via a normal unit price (e.g., as in Sundelin), that some items may be sold via a random weight (e.g., as disclosed by appellants), and that some items may be sold via a per piece price.

Based upon the teachings of Sundelin and O'Connor, the examiner states (answer, page 5) that "it would have been obvious to one of ordinary skill in the art at the time of the invention to integrate, with the system and method as taught by Sundelin, determining from the identification information whether the item is a random weight item, and if the item is a random weight item, sending a message to the electronic price label, in order to display the correct price for a random weight item, thereby increasing the versatility of the system since the system can be used with random weight items as well as regular items." The examiner acknowledges (answer, page 5) that "Sundelin as modified by O'Connor fails to teach displaying only unit price information, and to clear a total price portion of the display," but concludes (answer, pages 5 and 6), "[h]owever, at the time of

the invention it was well known to those of ordinary skill in the art to provide a display that displays only unit price information (for example: price displays in a produce section showing price/pound of a particular produce such as apples, onions, strawberries, etc.) since a total price is unknown, as different customers will select different amounts (weight) of the item." The examiner is of the opinion (answer, page 6) that "it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system and method, as taught by Sundelin as modified by O'Connor, to display only unit price information, and to clear a total price portion of the display, in order to display the correct price of a unit of a random weight item, as the total weight of the item selected by a particular customer is unknown."

Appellants argue (brief, page 10) that:

The cited references . . . fail to provide a motivation for combining identification of random weight items as taught by O'Connor with the electronic price label system of Sundelin. Also, the cited references fail to provide a motivation for adding the step of sending a message to display only unit price information to EPLs following identification of random weight items.

Appellants' arguments to the contrary notwithstanding, we agree with the examiner's statement (answer, page 10) that:

The motivation for combining the teachings of O'Connor with the teachings of Sundelin, is to allow the system as taught by Sundelin to be used with "normal" items and also with items sold by unit of weight and even items sold per piece. From the teachings of O'Connor, one having ordinary skill in the art at the time of the invention would have easily recognized that this adds versatility to the system as taught by Sundelin, by allowing the system to identify and retrieve prices for items no matter how they are sold, thereby increasing the appeal of the system to merchants (prospective buyers of the system).

With respect to appellants' argument concerning displaying only unit price information for random weight items, we also agree with the examiner's statement (answer, page 11) that "at the time of the invention it was well known to those of ordinary skill in the art to provide a display that displays only unit price information (for example: price displays in a produce section showing price/pound of a particular produce such as apples, onions, strawberries, etc.) since a total price is unknown, as different customers will select different amounts (weight) of the item" (emphasis added). If the total price is unknown for a item sold by weight, then appellants' disclosed and claimed electronic price label is only doing what comes naturally, namely, leaving blank the total price portion of the electronic price label.

Based upon the foregoing, the obviousness rejection of

claims 1, 2 and 4¹ through 6 is sustained.

The obviousness rejection of claim 3 is reversed because the combined teachings of the references neither teach nor would have suggested to one of ordinary skill in the art "to display the unit price information in a unit price portion and in a total price portion of a display within the electronic price label." The only disclosure of such a teaching is appellants' disclosed and claimed invention, and such a teaching is not available to the examiner in an obviousness determination.

¹ The claimed first configuration option is met by the modified teachings of Sundelin and O'Connor. Nothing in this claim requires that both configuration options have to be met by the combined teachings of the references.

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DECISION

The decision of the examiner rejecting claims 1 through 6 under 35 U.S.C. § 103(a) is affirmed as to claims 1, 2 and 4 through 6, and is reversed as to claim 3.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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LANCE LEONARD BARRY)	
Administrative Patent Judge)	

KWH/hh

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PAUL W. MARTIN
NCR CORP.
LAW DEPT. ECD-2
101 W. SCHANTZ AVE.
DAYTON, OH 45479-0001